

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAHIL KAMRAN-RAD,

Plaintiff,

vs.

CITIBANK, N.A.,

Defendant.

:
: Case No. 1:18-cv-4298
:

: **NOTICE OF REMOVAL FROM**
: **NEW YORK STATE SUPREME**
: **COURT, NEW YORK COUNTY,**
: **INDEX NO. 652082/2018**
:
:

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TO: THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK,

Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant, Citibank, N.A. (“Citibank”),
by and through its undersigned counsel, give notice of removal of this action to the United States
District Court for the Southern District of New York and, in support thereof, states as follows:

BACKGROUND

1. Plaintiff, Rahil Kamran-Rad (“Plaintiff” or “Kamran-Rad”) filed a
Complaint in the Supreme Court of the State of New York, County of New York, under Index
No. 652082/2018 (the “State Court Action”), against Citibank on April 27, 2018. *See* Plaintiff’s
Complaint, Summons, and Notice of Service, attached hereto as Ex. A.

2. Plaintiff alleges that Citibank violated the Telephone Consumer Protection
Act (“TCPA”), 47 U.S.C. § 227, *et seq.* by making certain telephone calls to plaintiff’s cellular
telephone without Plaintiff’s consent. *See* Ex. A, Compl. at ¶¶ 6-11.

3. On April 30, 2018, Citibank received a copy of Plaintiff’s Complaint.¹

¹ Citibank disputes that Plaintiff properly served it with process. However, for purposes of
this motion only, Citibank is using April 30, 2018 as the date to calculate the deadline to
file this removal application.

BASIS FOR REMOVAL JURISDICTION

4. Removal of this matter is proper under 28 U.S.C. § 1441(a), which authorizes removal of any civil action over which the district courts of the United States have original jurisdiction.

5. The United States District Court for the Southern District of New York has original jurisdiction over the Removed Action pursuant to 28 U.S.C. § 1331 because the matter "arises under" the laws of the United States. Specifically, as set forth in the Complaint and noted above, Plaintiff avers that Citibank violated the TCPA, a federal statute.

6. The TCPA is a federal statute, codified at 47 U.S.C. § 227 *et seq.*

7. Accordingly, this action is one over which the United States District Court for the Southern District of New York has subject matter jurisdiction pursuant to 28 U.S.C. § 1331.

VENUE

8. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a) and 1441(a), because the United States District Court for the Southern District of New York is the federal court embracing the Supreme Court of the State of New York, County of New York, where Plaintiff originally filed the State Court Action.

PROCEDURAL COMPLIANCE

9. The Notice of Removal is signed pursuant to Fed. R. Civ. P. 11. *See* 28 U.S.C. § 1446(a).

10. As required by 28 U.S.C. § 1446(d), copies of this Notice are being served on Plaintiff's counsel as well as the Clerk of the Court for the Supreme Court of the State of New York, County of New York. *See* the Notice of Filing (without exhibits), attached hereto as Ex. B.

11. Citibank has not yet answered, moved, or otherwise responded to the Verified Complaint in the State Court Action. By filing this notice of removal, Citibank does not waive any defense that may be available to it, including, but not limited to, lack of *in personam* jurisdiction, improper venue, insufficient process, insufficient service of process, failure to state a claim upon which relief may be granted, and/or failure to join a necessary party.

12. This Notice of Removal is timely as the 30-day time period set forth in 28 U.S.C. § 1446(b)(1) has not yet expired. *See* 28 U.S.C. § 1446(b)(1) (“The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.”).

13. Based upon the foregoing, this Court has jurisdiction pursuant to 28 U.S.C. § 1331 and this matter may be removed to this Court under 28 U.S.C. § 1441.

WHEREFORE, Defendant, Citibank, hereby removes the above-captioned action now pending in the Supreme Court of the State of New York, County of New York, to the United States District Court for the Southern District of New York and requests that this Court assumed full jurisdiction over this cause of action as provided by law.

Respectfully submitted,

Dated: May 14, 2018

/s/Adam Hartley
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